MONTANA LEGISLATIVE HISTORY

Chapter 89 1999

Bill H _____ S 203 Original bill & history ✓ C

H. Committee on Judiciary

Hearing Date(s) h 3/02 ___C

s 3/02 ___C

_____ ___C

_____ ___C

Date Out _____ ___C

S. Committee on Judiciary

Hearing Date(s) n 1/26 ___C

ex 1/29 ___C

_____ ___C

_____ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

LEGISLATIVE HISTORIES SINCE 1997

The scope and depth of legislative committee minutes varies by year and by committee. If you would like additional information about a hearing, you may want to determine whether the hearing was recorded. In addition, some recent floor debates were also recorded. For information on accessing or purchasing these recordings, contact the Historical Society Archives at 406-444-4774.

If you have concerns regarding the format of the enclosed committee minutes or the recordings of the hearings, it is suggested that you contact your state legislators.

SB 201 Introduced by McNutt, et al. *LC1499 Drafter: Petesch*

Clarify That in a Criminal Prosecution, Jeopardy Attaches When a Jury Is Empaneled and Sworn;...

By Request of Senate Judiciary Standing Committee

1/13	Introduced and 1st Reading		
1/13	Referred to Judiciary		
1/19	Hearing		
1/19	Committee Executive Action--Bill Passed	9	0
1/19	Committee Report--Bill Passed		
1/20	2nd Reading Passed	50	0
1/21	3rd Reading Passed	49	0
	Transmitted to House		
2/16	Referred to Judiciary		
3/05	Hearing		
3/05	Committee Executive Action--Bill Concurred	12	0
3/06	Committee Report--Bill Concurred		
3/09	2nd Reading Concurred	91	8
3/10	3rd Reading Concurred	91	8
	Returned to Senate		
3/11	Sent to Enrolling		
3/11	Returned from Enrolling		
3/12	Signed by President		
3/13	Signed by Speaker		
3/15	Transmitted to Governor		
3/18	Signed by Governor		
3/19	Chapter Number Assigned		
	Chapter Number 110		
	Effective Date: 10/01/1999 - All Sections		

SB 202 Introduced by Bartlett, et al. *LC0583 Drafter: McClure*

Establish a Work Period in Lieu of a Work Week for Employees in the Construction Industry;...

1/14	Introduced and 1st Reading
1/14	Referred to Labor and Employment Relations
1/26	Hearing
2/10	Tabled in Committee
3/01	Missed Deadline for General Bill Transmittal

SB 203 Introduced by Bartlett, et al. *LC0584 Drafter: Petesch*

Revise Laws Governing Execution of Judgment;...

1/14	Introduced and 1st Reading		
1/14	Referred to Judiciary		
1/26	Hearing		
2/01	Committee Executive Action--Bill Passed	9	0
2/01	Committee Report--Bill Passed		
2/04	2nd Reading Passed	50	0
2/05	3rd Reading Passed	49	0
	Transmitted to House		

2/16	Referred to Judiciary		
3/02	Hearing		
3/02	Committee Executive Action--Bill Concurred	19	0
3/03	Committee Report--Bill Concurred		
3/08	2nd Reading Concurred	99	1
3/09	3rd Reading Concurred	98	2
	Returned to Senate		
3/10	Sent to Enrolling		
3/10	Returned from Enrolling		
3/12	Signed by President		
3/13	Signed by Speaker		
3/15	Transmitted to Governor		
3/16	Signed by Governor		
3/17	Chapter Number Assigned		
	Chapter Number 89		
	Effective Date: 3/16/1999 - All Sections		

SB 204 Introduced by Keating, et al. *LC0009 Drafter: C. Erickson*

Authorize the Establishment of Charter Schools as a Means of Providing Additional Educational Opportunities to the Children of Montana;...

1/14	Introduced and 1st Reading
1/14	Referred to Education and Cultural Resources
1/14	Fiscal Note Requested
1/22	Fiscal Note Received
1/22	Fiscal Note Signed
1/22	Fiscal Note Printed
1/25	Revised Fiscal Note Requested
1/25	Revised Fiscal Note Signed
1/26	Revised Fiscal Note Printed
2/01	Hearing
2/08	Tabled in Committee
2/17	Taken from Table in Committee
2/19	Tabled in Committee
3/01	Missed Deadline for General Bill Transmittal

SB 205 Introduced by McNutt, et al. *LC0309 Drafter: Higgins*

Increase the Aviation Gasoline License Tax from 3 Cents to 4 Cents a Gallon;...

10/08	Fiscal Note Needed		
1/14	Introduced and 1st Reading		
1/14	Referred to Taxation		
1/14	Fiscal Note Requested		
1/18	Fiscal Note Received		
1/18	Fiscal Note Signed		
1/19	Fiscal Note Printed		
1/25	Hearing		
1/30	Committee Executive Action--Bill Passed	9	0
1/30	Committee Report--Bill Passed		
2/02	2nd Reading Passed as Amended	50	0
2/03	3rd Reading Passed	48	1
	Transmitted to House		
2/16	Referred to Taxation		
3/04	Hearing		

Senate BILL NO. 203

INTRODUCED BY Bartlett, Mackay, Halligan
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE LAWS GOVERNING EXECUTION OF JUDGMENT; PROVIDING A PROCEDURE FOR THE JUDGMENT DEBTOR TO CLAIM AN EXEMPTION FROM AN EXECUTION OF JUDGMENT; PROVIDING A PROCEDURE FOR ISSUANCE OF A WARRANT OF EXECUTION; ALLOWING A SHERIFF OR LEVYING OFFICER TO ACCEPT PAYMENT BY A METHOD OTHER THAN CASH AT THE SALE OF THE PROPERTY; AMENDING SECTIONS 25-13-301, 25-13-402, 25-13-708, AND 25-13-709, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Notification of seizure.** (1) After the sheriff or levying officer has executed upon the property of a judgment debtor, a notice of seizure must be served by the sheriff or levying officer upon the judgment debtor within 5 days of seizure. The notification must:

(a) inform the judgment debtor that certain described property or money of the judgment debtor's was seized to satisfy a judgment against the debtor;

(b) state the case name, the date of judgment, and the name of the judgment creditor;

(c) advise the judgment debtor that the judgment debtor may be entitled to claim an exemption from execution on the property as described in part 6 of this chapter or other provisions of state or federal law; and

(d) state the procedure by which the judgment debtor may claim an exemption and file a request for an exemption hearing.

(2) The notification may be made by personal service or by United States mail, postage prepaid, to the judgment debtor's last-known address. If service is by mail, service is completed on the date the sheriff or levying officer places the notification in the mail.

NEW SECTION. **Section 2. Claiming exemption -- process -- time for hearing.** (1) To claim an exemption from execution, a judgment debtor shall file a request for a hearing with the court that issued

the execution. The request must be in writing, and a copy of the request must be mailed by the judgment debtor on the date of filing to the judgment creditor or the judgment creditor's attorney and to the sheriff or levying officer. The request must be filed within 10 days, excluding weekends and holidays, of the date of:

(a) the judgment debtor's receipt of notification of execution, if notification was by personal service; or

(b) the date notification was mailed to the judgment debtor pursuant to [section 1(2)].

(2) If the judgment debtor does not file a request for an exemption hearing within the period provided for in subsection (1), the judgment debtor may not claim an exemption in the seized property.

(3) A court that receives a request for an exemption hearing shall conduct the hearing within 10 days, excluding weekends and holidays, from the date of receipt of the request.

(4) The court shall forward the order determining the judgment debtor's exemption claim to the sheriff or levying officer.

NEW SECTION. **Section 3. Warrant of execution -- requirements -- penalties.** (1) If there is reason to believe that there is personal property subject to execution that is located in the judgment debtor's residence, the judgment creditor or the judgment creditor's attorney may file an application for a warrant of execution with the court.

(2) The application must be supported by an affidavit from the judgment creditor or the judgment creditor's attorney:

(a) stating that a writ of execution has been issued and returned unsatisfied in whole or in part;

(b) stating that the affiant has reason to believe that there is property subject to execution in the possession of the judgment debtor in the judgment debtor's residence;

(c) stating that there is no other property of the judgment debtor available for levy and execution; and

(d) describing the property sought and the place and the purpose of the execution.

(3) If the judge determines that reasonable cause exists, the judge may issue a warrant of execution authorizing the sheriff or levying officer to enter the residence and levy upon property subject to execution.

(4) A sheriff or levying officer may condition service of a writ of execution and levy on property

located in an area other than the judgment debtor's residence upon the judgment creditor's securing a warrant of execution in accordance with subsection (1) when the sheriff or levying officer believes the area is subject to a reasonable expectation of privacy.

Section 4. Section 25-13-301, MCA, is amended to read:

"**25-13-301. Form and contents of writ.** (1) The writ of execution must:

(a) be issued in the name of the state of Montana, sealed with the seal of the court, and subscribed by the clerk;

(b) be directed to the sheriff or levying officer;

(c) intelligibly refer to the judgment, stating the court and the county where it was entered and, if it is for money, the amount ~~thereof~~ of money and the amount actually due ~~thereon~~ on the judgment; and

(d) require the sheriff or levying officer to act substantially as provided in this part.

(2) In executions, the amount ~~thereof~~ of the execution must be computed and stated as near as may be possible in dollars and cents, rejecting fractions of a cent.

(3) A writ of execution served upon an employer of the judgment debtor must be accompanied by a document that reasonably describes the exemptions from execution provided in 25-13-614."

Section 5. Section 25-13-402, MCA, is amended to read:

"**25-13-402. How writ executed.** (1) The sheriff or levying officer ~~must~~ shall execute the writ against the property of the judgment debtor no later than 60 days after receipt of the writ by:

(a) levying on ~~a~~ sufficient amount of property, if there ~~be~~ is sufficient property~~,~~;

(b) collecting or selling the things in action~~,~~; and

(c) selling the other property and paying to the ~~plaintiff~~ judgment creditor or ~~his~~ the judgment creditor's attorney ~~so~~ as much of the proceeds as will satisfy the judgment.

(2) Any proceeds in excess ~~in the proceeds over~~ of the judgment and accruing costs must be returned to the judgment debtor unless otherwise directed by the judgment or order of the court. When the sheriff or levying officer determines that there is more property of the judgment debtor than is sufficient to satisfy the judgment and accruing costs, ~~within the view of~~ the sheriff or levying officer~~, he must~~ shall levy only on ~~such~~ the part of the property ~~as~~ that the judgment debtor may indicate if the

property indicated ~~be amply~~ is sufficient to satisfy the judgment and costs.

(3) With respect to earnings of a judgment debtor, an employer shall respond to the levy based upon the earnings accrued to the end of the regular pay period in which the levy occurred.

(4) Except for perishable property, the sheriff or levying officer shall hold any property or money levied upon for 10 days, excluding weekends and holidays, following notification of execution upon the judgment debtor. After that time, the sheriff or levying officer may sell the property and pay the money to the judgment creditor.

(5) If the first levy is not sufficient to satisfy the writ, the sheriff or levying officer may levy, from time to time and as often as necessary, within the 60 days until the judgment is satisfied or the writ expires."

Section 6. Section 25-13-708, MCA, is amended to read:

"**25-13-708. Conveyance of personal property capable of manual delivery.** When the purchaser of any personal property capable of manual delivery pays the purchase ~~money~~ price, the officer making the sale ~~must~~ shall deliver to the purchaser the property and, if desired, execute and deliver to ~~him~~ the purchaser a certificate of ~~the~~ sale. ~~Such~~ The certificate conveys to the purchaser all ~~the right which~~ rights that the debtor had in ~~such~~ the property on the day the execution or attachment was levied."

Section 7. Section 25-13-709, MCA, is amended to read:

"**25-13-709. Conveyance of personal property not capable of manual delivery.** When the purchaser of any personal property not capable of manual delivery pays the purchase ~~money~~ price, the officer making the sale ~~must~~ shall execute and deliver to the purchaser a certificate of sale. ~~Such~~ The certificate conveys to the purchaser all ~~the right which~~ rights that the debtor had in ~~such~~ the property on the day the execution or attachment was levied."

NEW SECTION. **Section 8. Codification instruction.** [Sections 1 through 3] are intended to be codified as an integral part of Title 25, chapter 13, and the provisions of Title 25, chapter 13, apply to [sections 1 through 3].

NEW SECTION. **Section 9. Effective date.** [This act] is effective on passage and approval.

NEW SECTION. **Section 10. Applicability.** [This act] applies to an execution of judgment commenced on or after [the effective date of this act].

- END -

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on January 26, 1999 at 9:00 A.M., in Room 437 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 203, SB 230, SB 231, SB 259, 1/23/1999
Executive Action: SB 230, SB 231, SB 259

HEARING ON SB 203

Sponsor: **SEN. SUE BARTLETT, SD 27, Helena and Unionville**

Proponents: **Clay Smith, MT. Attorney Generals Office**
Wade Cooperider, MT. Sheriff and Peace Officers Association
George Bennett, MT. Bankers Association
Mike Malign, MT. Collection Association

Dennis Paxinos, Yellowstone County Attorney
Jeff Koch, Collection Bureau Services
Bob Pyfer, MT. Credit Unions League
Mary Phippen, MT. Association of Clerks of District Court
Keith Colbo, MT. Independent Bankers
Richard Rowe, Levying Officer, Equity Management Co.

Proponents: **Regan Whitooth, Attorney**

Opening Statement by Sponsor:

SEN. SUE BARTLETT advised that this bill addresses the procedures used to collect debts after judgement is awarded against a debtor, and is a result of the Supreme Court decision in Dorwart vs. County of Stillwater. **SEN. BARTLETT** explained in the Dorwart case deputy sheriffs were trying to serve two writs on Mr. Dorwart. He was arrested and charged with DUI. The deputies then entered into Mr. Dorwart's home through an unlocked door and seized some items listed in the Writ of Execution without Mr. Dorwart's permission. Mr. Dorwart claimed these actions violated his Constitutional rights involving illegal search and seizure, privacy, and right to receive due process before his property was disposed of to satisfy the judgement under the Montana Constitution. The Montana Supreme Court ruled in favor of Mr. Dorwart. It ruled that entry into a private home to serve a writ is subject to search and seizure provisions and a writ is not adequate to authorize such entry. Also, the entry violated Mr. Dorwart's right to privacy, and current post judgement execution statutes violate United States and Montana Constitutional Amendment of due process. **SEN. BARTLETT** stated this had a substantial impact on lawful collection.

SEN. BARTLETT then explained each section of the bill, it's purpose and the impact. She advised the committee that several parties had input in the content of this bill, and while the bill doesn't contain everything each party wanted, it does contain everything those parties felt would be necessary to make the law compliant with the Supreme Court's ruling. The court's decision has caused a tremendous amount of confusion and this bill excludes any controversial language as it is essential the law is corrected and clarified. She added that the effective date was upon passage.

{Tape : 1; Side : A; Approx. Time Counter : 9:10}

Proponents' Testimony:

Clay Smith, MT. Attorney General's Office, noted he had assisted **SEN. BARTLETT** in the drafting of this bill. **Mr. Smith** added the Mt. Supreme Court did not actually declare provisions of law unconstitutional but said due process rights were violated as statute applied, and Sections 1-3 of SB 203 were to ensure in the future, when post judgement executions were applied they will be applied in a consistent manner and in line with the Montana and US Constitutions.

Wade Cooperider, MT. Sheriff and Peace Officers Association, entered **EXHIBIT(1),** a definition of terms. **Mr. Cooperator** advised the Committee he has been a deputy for 10 years and involved in the civil process for five years. He was involved in the drafting of this bill and feels it serves to clarify the law and prevent future problems as in the Dorwart case.

George Bennett, MT. Bankers Association, advised between the time the Mt. Supreme Court issued the original decision and then later clarified their decision, there has been a great deal of confusion in the industry. **Mr. Bennett** explained the financial institutions not only collect loans but they also serve execution on accounts, and have been weary to accept or obtain Writs of Garnishments and Warrants of Distraint. **Mr. Bennett** noted this was affecting the Department of Revenue, Child Support Enforcement Division, and creditors because institutions do not want to levy accounts for judgement. **Mr. Bennett** further noted this bill gives a clear direction of the law.

Otis McCullough, Process Plus, advised he was in favor of a bill to clarify the law but due to the different interpretation from court to court, he thought there should be uniform forms. **Mr. McCullough** expressed concern with levying officers entering in private residences. He felt there was no need for this and was concerned as to how someone might use this authority. He noted there is a bond requirement of $10,000 and there could be a correlation of damages, thus increasing the bond requirements. **Mr. McCullough** noted there was no provision for private process servers to sell items received after executing a garnishment, and he requested the allowance to serve the writ be continuous for 60 days to reduce the paperwork. **Mr. McCullough** requested clarification on two issues. Section 4 stated a Writ of Execution subscribed by the clerk and he wondered if that includes a judge. Section 5 states officers shall execute a writ no later that 60 days after receiving, he noted the life of the writ is only 60 days and if someone received the writ after 30 days could that be used to extend the date?

Mike Moore, Attorney and President of MT. Collection Association, confirmed this bill was a collaborative effort and feels the concerns of the court in the Dorwart case have been addressed. **Mr. Moore** stressed it is important this bill gets through to clarify the law.

Dennis Paxinos, Yellowstone County Attorney, advised the Committee he supports the bill but recommended changes to close possible loopholes. **Mr. Poisonous** specifically noted concerns with the notification process, and the inability to sometimes locate individuals. **Mr. Poisonous** felt the bill should be amended to state the creditors, not the servers, should be required to notify the individual by certified mail and the server should also mail a notice by standard mail. **Mr. Poisonous** advised sheriffs and deputies were concerned about their liability, and felt the bill should state they would act as agents for the creditor so lawsuits were against the creditor and not the sheriff.

Jeff Koch, Owner of Collection Bureau Services, advised the committee he felt this bill met the requirements. **Mr. Koch** noted there are currently 56 different rules for the justice courts and district courts combined. **Mr. Koch** stressed the need for uniformity. **Mr. Koch** stated the certified mailing question had been discussed and all questions should be directed to **Clay Smith** or attorney **Vandermore.**

Bob Pyfer, MT. Credit Union League, advised the Committee the Credit Union League supported the intent of this bill, and expressed concerns with liability in honoring writs. **Mr. Puffer** noted the Credit Union League is interested in standard forms and a continuing writ, however he didn't want to see the bill killed for these reasons.

Mary Phippen, MT. Assoc. of Clerks of District Court, supported the bill, and recommended a Do Pass. **Ms. Phippen** concurred with other proponents in that there are several interpretations of the law for issuing writs.

Keith Colbo, MT. Independent Bankers, recommended Do Pass and noted the issues raised by the Dorwart decision need to be resolved.

Richard Rowe, Levying Officer Equity Management Company, advised the Committee they execute over 30,000 levies and the Dorwart case has had a direct effect on the business. **Mr. Rowe** expressed support for this bill, however he was in support of a continuing writ, due to the inconvenience caused to employers who are

unhappy to begin with, and the cost to renew each time a writ is levied.

{Tape : 1; Side : A; Approx. Time Counter : 9.35}

Opponents' Testimony:

Regan Whitooth, Attorney, advised the Committee he was in favor of what the bill was attempting to do, and felt if civil judgements were not enforceable they were meaningless. **Mr. Whitooth** stated he feels the decision still is unclear and changing, therefore it was good to set procedures for notices and hearings. **Mr. Whitooth** opposed the bill because he felt there should be a uniform form for all courts to utilize. **Mr. Whitooth** added he felt it was a mistake to make the server an agent of the creditor as an agent of the court had more rights.

Questions by the Committee:

SEN. HALLIGAN asked **Clay Smith** for his opinion on the form. **Mr. Smith** advised he felt the MT. Supreme Court needed to make the form and concurred it was time for them to do that with several forms. **Mr. Smith** recommended the form not be added but rely on the Judicial Branch for forms and rule changes. **Mr. Smith** addressed other questions as follows: The certified letter was not required by the Constitution and he felt if the letter was sent to the last known address it would satisfy the Constitutional requirement. A continual writ is complicated and felt this bill needed to be adopted to fix a large problem now. He noted a lifetime for a writ is only 60 days.

SEN. GRIMES asked **Mr. Smith** his opinion of making an officer of the court an agent of the creditor. **Mr. Smith** maintained that agent of the court should not be an agent of the creditor. He noted this is a policy issue and should be addressed by the Committee.

SEN. DOHERTY wondered who was liable, the court or the creditor? **Mr. Smith** advised this issue was a technical issue and not addressed by the court. **Mr. Smith** felt the liability was assumed by the State if the service was preformed by a sheriff or officer of the court. If the service was performed by a private individual, their insurance would cover. However, he was unclear if that would be a court decision.

Mr. Whitooth advised that servers could not be an agent for the creditors since creditors had no right to serve on their own. He noted if an agent does something unlawful it is done on their own, and not by the creditor. **Mr. Whitooth** advised in respect to

Dorwart, the bill should make civil judgements enforceable and not cause new litigation, therefore the agent issue should not be added on this bill.

Closing Statement:

SEN. BARTLETT stressed the proponents made clear the difficulties with respect to the decisions by the court in the Dorwart case. **SEN. BARTLETT** noted this bill sets up a clear procedure and makes it more likely the law and procedures will be compliant with the MT. Supreme Court's decision. **SEN. BARTLETT** added the bill does not contain controversial items because the law needs to be corrected and by having a general agreement the bill can proceed.

{Tape : 1; Side : B; Approx. Time Counter : 9.55}

HEARING ON SB 259

Sponsor: **SEN. DUANE GRIMES, SD 20, CLANCY**

Proponents: **Judy Wong, Assistant Attorney, City of Missoula**
Nancy Knight, MT. Coalition Against Domestic and Sexual Violence
Matthew Dale, Executive Director of the Helena Friendship Center
Rebecca Moog, MT. Women's Lobby
Kelly Slattery Robinson, formerly Battered Women's Shelter
Julie Turned, Social Worker for Missoula Youth Homes
Patrina Simss, Missoula County Family Violence Center and Advocate for YWCA

Opponents: **None**

Opening Statement by Sponsor:

SEN. GRIMES advised the Committee currently there is a $30.00 fee payable with each divorce filing. This fees goes to the Domestic Violence Program and generates approximately $148,000 in revenue annually. The Domestic Violence Program contracts with 21 service providers for service contracts statewide. **SEN. GRIMES** explained the service contracts were awarded on a competitive basis to non profit agencies whose goal is to assist victims of family violence with emergency food, shelter, and counseling and to provide program participants with advocacy education assistance, legal assistance, and referrals to other agencies. **SEN. GRIMES** told the committee the $148,000 was a drop in the bucket compared to the results being achieved and the money saved

MINUTES

MONTANA SENATE
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on January 29, 1999 at 9:00 A.M., in Room 420 Capitol.

ROLL CALL

Members Present:
Sen. Lorents Grosfield, Chairman (R)
Sen. Al Bishop, Vice Chairman (R)
Sen. Sue Bartlett (D)
Sen. Steve Doherty (D)
Sen. Duane Grimes (R)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Reiny Jabs (R)
Sen. Walter McNutt (R)

Members Excused: None.

Members Absent: None.

Staff Present: Judy Keintz, Committee Secretary
Valencia Lane, Legislative Branch

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:
Hearing(s) & Date(s) Posted:
Executive Action: SB 16, SB 36, SB 75, SB 163, SB 198, SB 203, SB 215, SB 221

EXECUTIVE ACTION ON SB 16

SEN. GRIMES remarked that he has obtained a list of actions being taken by other states regarding the Y2K problem. He asked that SB 16 be placed in a subcommittee that would thoroughly review the issue and come back to the committee with a proposal regarding the bill. He also suggested expanding the scope of the subcommittee. Potential impacts on consumers include power outages, loss of phone service, difficulty in paying bills with

they have their specialized equipment there. Amendment no. 5 of SB003601.avl states "rendered to a patient of a clinic or a patient referred by a clinic". These means that for dentists to be covered by the immunity, the patient will need to be a patient of the clinic or referred by a clinic.

SEN. HOLDEN stated that they definitely made a mistake in that area and an amendment was necessary to clarify the language.

SEN. GRIMES maintained that the discussion in the Public Health Committee was that there would be some impact on the dental profession and this would need to be addressed at a later time in the legislative process. If doctors were to be held to a certain standard, dentists would be held to the same standard.

Vote: The motion carried with SEN. BARTLETT voting "no" - 8-1.

{Tape : 2; Side : A; Approx. Time Counter : 10.50}

EXECUTIVE ACTION ON SB 215

Motion: SEN. BARTLETT moved that **SB 215 DO PASS.**

SEN. BARTLETT explained that SB 215 takes the maximum penalty that could be given for a negligent homicide from 10 years to 20 years. The reasons are that a 20 year maximum penalty conforms better with the maximum penalty for other crimes of an equally serious nature. The kinds of cases that are charged as negligent homicide have a very broad range of circumstances and the 10 year maximum sentence is not an adequate sentence range to give a judge the opportunity to address the severity of a particular instance.

Vote: The motion carried unanimously - 9-0.

EXECUTIVE ACTION ON SB 203

Motion: SEN. BARTLETT moved that **SB 203 DO PASS.**

SEN. BARTLETT explained that this addresses the Supreme Court decision regarding writs of execution to collect on judgments. The Court held that the post judgment execution laws were unconstitutional. The elements of that decision are addressed in SB 203.

SEN. GRIMES remarked that on page 3, following the language "when the sheriff or levying officer", there was a suggestion that the language "acting as an agent of the court" should be inserted.

SEN. BARTLETT explained that following the hearing she spoke with deputy sheriffs, private process servers, and collection agency attorneys. No one wanted to address this issue. They believe it works well at this time. If it is an error by the collection agency, they carry an errors and omissions insurance for that reason. If it is an error of a private levying officer, they are bonded. If it is an error by the deputy sheriff, the county is liable.

SEN. GRIMES questioned if there was another reason besides the liability issue that someone would want to be designated as an agent of the court.

Wade Copenhaver, Deputy Sheriff of Lewis and Clark County, concurred with **SEN. BARTLETT.**

SEN. HOLDEN remarked there was a point raised regarding the extension of the writ to eliminate the writ every 60 days.

SEN. BARTLETT clarified that this would involve a continuous levy on the writ within the 60 day life. This provision is controversial. The people who have worked on this legislation are interested in simply addressing the Supreme Court decision to enable writs of execution and those processes to go forward for the collection of debts.

Jeff Koch, Montana Collectors Association, conveyed that the current life of the writ is 60 days. Current practice is that the writ would be served and at the pay period, the wages would be garnished. It would be necessary to reserve the writ with new calculations for the next pay period. For four times during the life of the writ, the writ would need to be reserved. The request was that it would be served once at the beginning of the 60 days and the employer would be required to honor it in consecutive pay periods. The onus would be shifted to whomever the levy is served to for monitoring that for the 60 day period.

George Bennett, Bankers Association, remarked that a second problem with the continuing levy would be that there are some levies that would trump others, such as child support and collection of Montana taxes. When the levies are stacked, there are priorities which further complicate the issue. This legislation is to serve the Dorwart issue and this was not an issue in that case.

Vote: Motion **carried unanimously.**

SEN. BARTLETT submitted a copy of the Dorwart decision, **EXHIBIT(6)** and **EXHIBIT(7).**

Exhibit # 6
From
The full exhibit is available from:
Montana Historical Society Archives
225 North Roberts
PO Box 201201
Helena, MT 59602-1201
Phone: (406) 444-4775
(31 pgs)

HTTP://WWW.LAWLIBRARY.MT.GOV/95-446.HTM

STATE OF MONTANA

EXHIBIT NO. 6
DATE 1-29-99
SB. NO. SB 262

RUSSELL EDWARD DORWART and

HARRY DORWART,

Plaintiffs, Appellants and

Cross-Respondents,

v.

PAUL CARAWAY, individually and as a deputy in the Stillwater County Sheriff's Office; DANNY AMES, individually and as a deputy in the Stillwater County Sheriff's Office' CLIFF BROPHY, individually and as Sheriff of Stillwater County, Montana; and COUNTY OF STILLWATER, State of Montana,

Defendants, Respondent and

Cross-Appellants.

APPEAL FROM: District Court of the Thirteenth Judicial District,

In and for the County of Stillwater,

The Honorable Maurice R. Colberg, Judge presiding.

COUNSEL OF RECORD:

For Appellants:

Gary R. Thomas (argued); Thomas Law Office, Red Lodge, Montana

For Respondents:

Steven R. Milch (argued); Crowley, Haughey, Hanson, Toole & Dietrich, Billings, Montana

For Amicus:

Hon. Joseph P. Mazurek, Attorney General; Clay R. Smith, Solicitor,

SENATE JUDICIARY COMMITTEE
EXHIBIT NO. 7
DATE 1-29-99
BILL NO. SB 203

No. 95-446

IN THE SUPREME COURT OF THE STATE OF MONTANA

1998 MT 191A

RUSSELL EDWARD DORWART)
and HARRY DORWART,)
)
Plaintiffs, Appellants)
and Cross-Respondents,)
) O R D E R
v.)
)
PAUL CARAWAY, individually, and as a)
deputy in the Stillwater County Sheriff's Office;)
DANNY AMES, individually, and as a deputy)
in the Stillwater County Sheriff s Office; CLIFF)
BROPHY, individually, and as Sheriff of)
Stillwater County, Montana; and COUNTY OF)
STILLWATER, State of Montana,)
)
Defendants, Respondents,)
and Cross-Appellants.)

On August 4, 1998, the Opinion of this Court in the above-entitled cause was filed. On August 28, 1998, Appellants and Cross-Respondents filed their Petition for Rehearing.

On September 4, 1998, Respondents and Cross-Appellants filed their Objections to Petition for Rehearing. Thereafter, the Attorney General of Montana and the Montana Bankers Association, having been granted leave by this Court to respond *amicus curiae* to the Petition for Rehearing, filed their responses.

After review of this Court's Opinion issued August 4, 1998, and having considered Appellants' and Cross-Respondents' Petition for Rehearing as well as Respondents' and

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
56th LEGISLATURE - REGULAR SESSION

COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN ROBERT C. CLARK,** on March 2, 1999 at 8:00 A.M., in Room 312 - 1 Capitol.

ROLL CALL

Members Present:

Rep. Robert C. Clark, Chairman (R)
Rep. Dan McGee, Vice Chairman (R)
Rep. Chris Ahner (R)
Rep. Shiell Anderson (R)
Rep. Paul Clark (D)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Tom Facey (D)
Rep. Steven Gallus (D)
Rep. Gail Gutsche (D)
Rep. Joan Hurdle (D)
Rep. Rick Jore (R)
Rep. Sam Kitzenberg (R)
Rep. Brad Molnar (R)
Rep. Mark Noennig (R)
Rep. Jim Shockley (R)
Rep. Loren Soft (R)
Rep. Carol Williams (D)
Rep. Cindy Younkin (R)

Members Excused: None.

Members Absent: Rep. Diana Wyatt, Vice Chairman (D)

Staff Present: John MacMaster, Legislative Branch
Pam Schindler, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: SB 16, SB 36, SB 203, SB 214, 2/27/1999
Executive Action: SB 203-Be Concurred In

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 2; Side : B; Approx. Time Counter : 82 - 550}
{Tape : 3; Side : A; Approx. Time Counter : 0 - 12}

Closing by Sponsor:

Senator Keenan made closing statements.
{Tape : 3; Side : A; Approx. Time Counter : 12 - 34}

EXHIBIT(9)

HEARING ON SB 203

Sponsor:

Senator Bartlett presented SB 203.
{Tape : 3; Side : A; Approx. Time Counter : 34 - 150}

EXHIBIT(10)
EXHIBIT(11)

Proponents:

Clay Smith, Attorneys Generals Office
{Tape : 3; Side : A; Approx. Time Counter : 150 - 161}
Wayne Cooperider, Montana Sheriffs and Peace Officers Association
{Tape : 3; Side : A; Approx. Time Counter : 161 - 183}
George Bennett, Montana Bankers Association
{Tape : 3; Side : A; Approx. Time Counter : 183 - 214}
Michael Moore, Montana Collectors Association
{Tape : 3; Side : A; Approx. Time Counter : 214 - 232}
Bob Pfeiffer, Montana Credit Union League
{Tape : 3; Side : A; Approx. Time Counter : 232 - 250}
Paul Stahl, L & C Deputy County Attorney
{Tape : 3; Side : A; Approx. Time Counter : 250 - 268}
Keith Colbo, Montana Independent Bankers Association
{Tape : 3; Side : A; Approx. Time Counter : 268 - 283}

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 3; Side : A; Approx. Time Counter : 283 - 298}

Closing by Sponsor:

Senator Bartlett made closing statements.
{Tape : 3; Side : A; Approx. Time Counter : 298 - 330}

HEARING ON SB 214

Sponsor:

Senator Bartlett presented SB 214.
{Tape : 3; Side : A; Approx. Time Counter : 330 - 430}

EXHIBIT(12)
EXHIBIT(13)

Proponents:

Wayne Cooperider, Montana Sheriffs and Peace Officers Association
{Tape : 3; Side : A; Approx. Time Counter : 430 - 490}
Clark Harrington, Montana County Treasures Association
{Tape : 3; Side : A; Approx. Time Counter : 490 - 550}
Paul Stahl, Montana County Attorneys Association
{Tape : 3; Side : B; Approx. Time Counter : 0 - 11}

Opponents:

None

Informational Testimony:

None

Questions from Committee Members and Responses:

{Tape : 3; Side : B; Approx. Time Counter : 11 - 210}

Closing by Sponsor:

Senator Bartlett made closing statements.

{Tape : 3; Side : B; Approx. Time Counter : 210 - 249}

EXHIBIT(14)

EXECUTIVE ACTION ON SB 203

Motion/Vote: **REP. YOUNKIN** moved that **SB 203 BE CONCURRED IN.**
Motion carried 19-0.
(Rep. Wyatt absent for committee meting)
{Tape : 3; Side : B; Approx. Time Counter : 249 - 363}

Meeting Adjourned.

HTTP://WWW.LAWLIBRARY.MT.GOV/95-446.htm

EXHIBIT 11
DATE 3/2/99
SB 203

No. 95-446

IN THE SUPREME COURT OF THE STATE OF MONTANA

1998 MT 191

RUSSELL EDWAR

HARRY D(

Plaintiffs, Ap

Cross-Resp

v.

PAUL CARAWAY, individually a

County Sheriff's Office; DANNY

deputy in the Stillwater County Sheriff's Office' CLIFF BROPHY,

individually and as Sheriff of Stillwater County, Montana; and

COUNTY OF STILLWATER, State of Montana,

Defendants, Respondent and

Cross-Appellants.

Exhibit # 11
From Senator Bartlett
The full exhibit is available from:
Montana Historical Society Archives
225 North Roberts
PO Box 201201
Helena, MT 59602-1201
Phone: (406) 444-4775
(37 pgs)

APPEAL FROM: District Court of the Thirteenth Judicial District,

In and for the County of Stillwater,

The Honorable Maurice R. Colberg, Judge presiding.

COUNSEL OF RECORD:

For Appellants:

Gary R. Thomas (argued); Thomas Law Office, Red Lodge, Montana

For Respondents:

Steven R. Milch (argued); Crowley, Haughey, Hanson, Toole & Dietrich,

Billings, Montana

For Amicus:

Hon. Joseph P. Mazurek, Attorney General; Clay R. Smith, Solicitor,

EXHIBIT 10
DATE 3/2/99
SB 203

SENATE BILL 203, Revising the Laws Concerning Execution of Judgments (The Dorwart Case)

Opening Remarks of Senator Sue Bartlett, District 27, Chief Sponsor, March 2, 1999

Senate Bill 203 addresses the procedures to be used in Montana for collecting a debt after a judgment has been entered against a debtor in a civil action. This bill is a response to a Montana Supreme Court decision in August, 1998, and an Addendum issued in November 1998.

The Court's decision is commonly referred to as the "Dorwart decision." Briefly, here are the facts of that case:

- **Dorwart was a judgment debtor. Writs of Execution were issued to enforce the judgments against him. After the Writs were issued, Dorwart was stopped by a Deputy Sheriff for the purpose of serving the Writs. Dorwart was driving at the time, and in addition to serving the Writs, the Deputy arrested Dorwart for driving under the influence, and took him to jail. After Dorwart was in jail, two Deputy Sheriffs went to his home, entered the residence through an unlocked door, and seized items of personal property pursuant to the Writs of Execution. They had not asked nor been given Dorwart's permission to enter his residence.**
- **These events gave rise to Dorwart's court case, in which he claimed that the**

actions of the Deputy Sheriffs violated his right to receive due process before being deprived of his property to satisfy a judgment. In addition, he claimed that his right to privacy under the Montana Constitution had been violated when the Deputies entered his home without permission, without his being present, and without a search warrant.

The Court held that:

- **Entry into a private home to execute a Writ is subject to the search and seizure provisions of the Montana and U.S. Constitutions. The Writs of Execution alone were not adequate to authorize such entry;**
- **Entry into Dorwart's home did violate his right to privacy under the Montana Constitution, and that;**
- **Montana's current post-judgment execution statutes, as applied in this case, violate the U.S. and Montana constitutional guarantees of due process.**

The Dorwart decision has had a substantial impact upon the lawful collection of debts in the state. The decision had the immediate effect of suspending all executions and levies in Montana. In November, 1998, the Court issued an Addendum to the Dorwart decision that allowed executions and levies to resume, with the clear expectation that the issue would be addressed by this legislative

session. SB 203 does so.

SB 203 revises our laws on execution of judgment to comply with the Court's finding in the Dorwart decision. As you have heard, that decision addresses the Constitutional rights of privacy, search and seizure, and due process. Specifically, the Court ruled that:

- **Entry into the debtor's home to seize property subject to execution requires a warrant of execution. This is the civil equivalent of a search warrant in a criminal case, and provides the procedural safeguards against unlawful searches and seizures, as well addressing the debtor's right to privacy in his or her home. Section 3 of SB 203 establishes the requirement for a Warrant of Execution.**
- **The Court also indicated that other areas, such as a debtor's business, could be areas in which a debtor may have reasonable expectation of privacy. That point is addressed in subsection 4 of Section 3.**
- **The due process requirements identified by the Court are addressed in Sections 1 and 2 of SB 203. They include:**
    1. **Notice to the debtor that property has been seized to satisfy the judgment.**
    2. **In current law, we have provided that certain property of the debtor**

is exempt from execution. So another due process requirement is that the debtor must be notified that these exemptions are available and where to find information about the exemptions.

3. The debtor must also be given information about how to claim one or more of the exemptions.

All of these are due process requirements that are covered in Section 1 of the bill.

In addition, due process requires that the debtor be given a prompt hearing on the claim of an exemption. That is provided for in Section 2 of the bill.

Section 4 of the bill provides notice of the exemptions from the debtor's earnings when the writ is served on the debtor's employer to garnish wages.

4. Since the notices and hearing occur after property has been seized, Section 5 requires that the property seized be protected for the 10 days' time given to the debtor to claim an exemption.

Section 5 also makes clear that more than one levy on property may be made during the sixty days in which a Writ of Execution is effective, if additional levies are necessary to satisfy the judgment.

5. Sections 6 and 7 are essentially clean-up of the current law. The one substantive change is to strike the word "money" and insert the word "price". This allows a purchaser of the property to use instruments of credit, such as a letter of credit, to pay for the property. The purchaser will not be restricted to "cash" in paying for the property.

SB 203 was developed in response to the Dorwart decision by an ad hoc group of interested parties, including the Sheriff's and Peace Officer's Association, the Private Process Servers Association, the Montana Bankers Association, and the Montana Department of Justice.

SB 203 addresses the basics of the Dorwart decision. It does not include everything every interested party wanted in terms of revising the laws on executions of judgment. Only those provisions on which everyone agreed, and which are absolutely necessary to satisfy the requirements of the Dorwart decision, are included in SB 203. The goal here is to satisfy the requirements of the Court's

ruling without getting into controversial issues that could jeopardize the bill's passage by this legislature.

One final point -- because of the impact the Dorwart decision has had on collections of judgments, this bill will be effective on passage and approval.

Mr. Chairman, that concludes my opening remarks. There are proponents for the bill.

AN ACT REVISING THE LAWS GOVERNING EXECUTION OF JUDGMENT; PROVIDING A PROCEDURE FOR THE JUDGMENT DEBTOR TO CLAIM AN EXEMPTION FROM AN EXECUTION OF JUDGMENT; PROVIDING A PROCEDURE FOR ISSUANCE OF A WARRANT OF EXECUTION; ALLOWING A SHERIFF OR LEVYING OFFICER TO ACCEPT PAYMENT BY A METHOD OTHER THAN CASH AT THE SALE OF THE PROPERTY; AMENDING SECTIONS 25-13-301, 25-13-402, 25-13-708, AND 25-13-709, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Notification of seizure. (1) After the sheriff or levying officer has executed upon the property of a judgment debtor, a notice of seizure must be served by the sheriff or levying officer upon the judgment debtor within 5 days of seizure. The notification must:

(a) inform the judgment debtor that certain described property or money of the judgment debtor's was seized to satisfy a judgment against the debtor;

(b) state the case name, the date of judgment, and the name of the judgment creditor;

(c) advise the judgment debtor that the judgment debtor may be entitled to claim an exemption from execution on the property as described in part 6 of this chapter or other provisions of state or federal law; and

(d) state the procedure by which the judgment debtor may claim an exemption and file a request for an exemption hearing.

(2) The notification may be made by personal service or by United States mail, postage prepaid, to the judgment debtor's last-known address. If service is by mail, service is completed on the date the sheriff or levying officer places the notification in the mail.

Section 2. Claiming exemption -- process -- time for hearing. (1) To claim an exemption from execution, a judgment debtor shall file a request for a hearing with the court that issued the execution.

The request must be in writing, and a copy of the request must be mailed by the judgment debtor on the date of filing to the judgment creditor or the judgment creditor's attorney and to the sheriff or levying officer. The request must be filed within 10 days, excluding weekends and holidays, of the date of:

(a) the judgment debtor's receipt of notification of execution, if notification was by personal service; or

(b) the date notification was mailed to the judgment debtor pursuant to [section 1(2)].

(2) If the judgment debtor does not file a request for an exemption hearing within the period provided for in subsection (1), the judgment debtor may not claim an exemption in the seized property.

(3) A court that receives a request for an exemption hearing shall conduct the hearing within 10 days, excluding weekends and holidays, from the date of receipt of the request.

(4) The court shall forward the order determining the judgment debtor's exemption claim to the sheriff or levying officer.

Section 3. Warrant of execution -- requirements -- penalties. (1) If there is reason to believe that there is personal property subject to execution that is located in the judgment debtor's residence, the judgment creditor or the judgment creditor's attorney may file an application for a warrant of execution with the court.

(2) The application must be supported by an affidavit from the judgment creditor or the judgment creditor's attorney:

(a) stating that a writ of execution has been issued and returned unsatisfied in whole or in part;

(b) stating that the affiant has reason to believe that there is property subject to execution in the possession of the judgment debtor in the judgment debtor's residence;

(c) stating that there is no other property of the judgment debtor available for levy and execution; and

(d) describing the property sought and the place and the purpose of the execution.

(3) If the judge determines that reasonable cause exists, the judge may issue a warrant of execution authorizing the sheriff or levying officer to enter the residence and levy upon property subject to execution.

(4) A sheriff or levying officer may condition service of a writ of execution and levy on property

located in an area other than the judgment debtor's residence upon the judgment creditor's securing a warrant of execution in accordance with subsection (1) when the sheriff or levying officer believes the area is subject to a reasonable expectation of privacy.

Section 4. Section 25-13-301, MCA, is amended to read:

"**25-13-301. Form and contents of writ.** (1) The writ of execution must:

(a) be issued in the name of the state of Montana, sealed with the seal of the court, and subscribed by the clerk;

(b) be directed to the sheriff or levying officer;

(c) intelligibly refer to the judgment, stating the court and the county where it was entered and, if it is for money, the amount ~~thereof~~ of money and the amount actually due ~~thereon~~ on the judgment; and

(d) require the sheriff or levying officer to act substantially as provided in this part.

(2) In executions, the amount ~~thereof~~ of the execution must be computed and stated as near as may be possible in dollars and cents, rejecting fractions of a cent.

(3) A writ of execution served upon an employer of the judgment debtor must be accompanied by a document that reasonably describes the exemptions from execution provided in 25-13-614."

Section 5. Section 25-13-402, MCA, is amended to read:

"**25-13-402. How writ executed.** (1) The sheriff or levying officer ~~must~~ shall execute the writ against the property of the judgment debtor no later than 60 days after receipt of the writ by:

(a) levying on a sufficient amount of property, if there ~~be~~ is sufficient property~~,~~;

(b) collecting or selling the things in action~~,~~; and

(c) selling the other property and paying to the ~~plaintiff~~ judgment creditor or ~~his~~ the judgment creditor's attorney ~~so~~ as much of the proceeds as will satisfy the judgment.

(2) Any proceeds in excess ~~in the proceeds over~~ of the judgment and accruing costs must be returned to the judgment debtor unless otherwise directed by the judgment or order of the court. When the sheriff or levying officer determines that there is more property of the judgment debtor than is sufficient to satisfy the judgment and accruing costs, ~~within the view of~~ the sheriff or levying officer~~, he~~

~~must~~ shall levy only on ~~such~~ the part of the property ~~as~~ that the judgment debtor may indicate if the property indicated ~~be amply~~ is sufficient to satisfy the judgment and costs.

(3) With respect to earnings of a judgment debtor, an employer shall respond to the levy based upon the earnings accrued to the end of the regular pay period in which the levy occurred.

(4) Except for perishable property, the sheriff or levying officer shall hold any property or money levied upon for 10 days, excluding weekends and holidays, following notification of execution upon the judgment debtor. After that time, the sheriff or levying officer may sell the property and pay the money to the judgment creditor.

(5) If the first levy is not sufficient to satisfy the writ, the sheriff or levying officer may levy, from time to time and as often as necessary, within the 60 days until the judgment is satisfied or the writ expires."

Section 6. Section 25-13-708, MCA, is amended to read:

"**25-13-708. Conveyance of personal property capable of manual delivery.** When the purchaser of any personal property capable of manual delivery pays the purchase ~~money~~ price, the officer making the sale ~~must~~ shall deliver to the purchaser the property and, if desired, execute and deliver to ~~him~~ the purchaser a certificate of ~~the~~ sale. ~~Such~~ The certificate conveys to the purchaser all ~~the right which~~ rights that the debtor had in ~~such~~ the property on the day the execution or attachment was levied."

Section 7. Section 25-13-709, MCA, is amended to read:

"**25-13-709. Conveyance of personal property not capable of manual delivery.** When the purchaser of any personal property not capable of manual delivery pays the purchase ~~money~~ price, the officer making the sale ~~must~~ shall execute and deliver to the purchaser a certificate of sale. ~~Such~~ The certificate conveys to the purchaser all ~~the right which~~ rights that the debtor had in ~~such~~ the property on the day the execution or attachment was levied."

Section 8. Codification instruction. [Sections 1 through 3] are intended to be codified as an integral part of Title 25, chapter 13, and the provisions of Title 25, chapter 13, apply to [sections 1 through 3].

Section 9. Effective date. [This act] is effective on passage and approval.

Section 10. Applicability. [This act] applies to an execution of judgment commenced on or after [the effective date of this act].

- END -